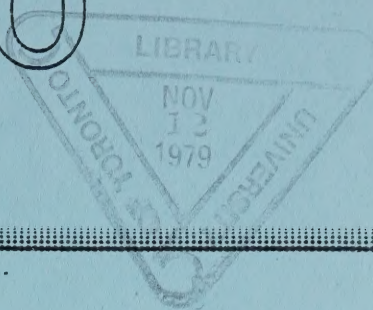


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LOCAL GOVERNMENT

411 BULLETIN

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THE INTERPRETATION ACT

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Ontario Ministry of Intergovernmental Affairs

Hon. Thomas L. Wells
Minister

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Deputy Minister

Local Government Division
Municipal Administration Branch


August 1979

To the Municipal Clerk:

Please circulate this bulletin or make copies for distribution to councillors or staff of your municipality who may be interested in the subject. Additional copies are available at fifty cents each from the Publications Centre (see page 8).

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INTRODUCTION

We all know what the words 'year', 'person', and 'holiday' mean in our day-to-day lives. But do we know what the legal meaning of those words is? Since municipal governments must be sensitive to the language of acts and by-laws, the legal meaning of words is important. This is where The Interpretation Act can be valuable.

One purpose, and possibly the most important, of The Interpretation Act is to standardize the terms and words that are used in acts passed by the legislature. Its importance cannot be underestimated; the provisions of The Interpretation Act apply to every Act passed by the Ontario Legislature (unless an act specifies that The Interpretation Act does not apply to it.)

Since municipal governments derive their authority from provincial legislation, the provisions of The Interpretation Act affect them.

The intent of this bulletin is to highlight those sections of The Interpretation Act that have a direct relevance to local government. Pertinent case law will be noted to assist in understanding some of the sections of this Act. However, even where the cases are cited, reference should still be made to the Law Reports in order to be absolutely accurate about the details of the case.

This is an awareness bulletin only. It should not be considered a substitute for the Act. In all instances, reference to the statute, for the correct wording, is necessary and above all, your solicitor's advice should be sought when using this Act.

GENERAL

The Interpretation Act is not a new statute in Ontario. It was first consolidated in the Revised Statutes of Ontario, 1877, from several other acts and provisions. After some amendments, it was re-enacted in 1907 and has appeared in substantially the same form in successive revisions of the statutes to the present time.

This Act has general application to every act passed by the legislature, unless specifically stated to the contrary. However, the provisions of this Act are not applicable where this Act is inconsistent with the intent, object or interpretation of another act.

Where an interpretation section exists in any act, such as the one in The Municipal Act, those definitions are considered to be in addition to those in The Interpretation Act and the rules and exceptions, as stated in The Interpretation Act, will apply.

The Interpretation Act is not very long. It contains 32 sections. Many of the sections are self-evident and need no explanation since they state expressly what was assumed to have been the law. Those that have a direct impact on municipal governments are highlighted in this bulletin and, where possible, case law is cited to underscore the meaning and intent of those sections.

SECTIONS OF INTEREST TO LOCAL GOVERNMENTSection 5

*Effect of
instruments
prior to
proclamation*

generally states that an "instrument" (order, rule, regulation or by-law) may be passed under an act before the act comes into force but the instrument will not have any effect until the act is proclaimed in force. The application of this section is important in those circumstances where an act has been passed but there is a provision in it which states that it will not come into force until a day named by proclamation of the Lieutenant Governor.

This section was used in the 1948 case, *The Crown v. Hay and Company Limited*. This case dealt with the passing and enforcement of a by-law of the County of Oxford prior to the proclamation and enactment of the Act authorizing the by-law.

On September 13, 1946, the County of Oxford passed a by-law under the authority of The Trees Conservation Act, 1946 which had been passed and had received Royal Assent on March 27 of that year but had not yet been proclaimed by the Lieutenant Governor. It was ultimately proclaimed to come into force on November 14, 1946.

In 1947 the County prosecuted Hay and Company under the by-law. Hay and Company argued that the by-law was invalid because it had been passed before the Act authorizing it had come into force. The County argued that because of section 5 of The Interpretation Act the by-law, even though passed prior to the Act coming into force, became valid once the date established by proclamation had arrived. The judge agreed with Hay and Company. The lesson would seem to be that a municipality should only pass a by-law after the act authorizing it has come into force, whether by proclamation or otherwise, to guard against the by-law being found invalid on this ground.

Section 15

*Re-enactments,
amendments,
consolidations and
revisions*

allows all regulations, orders, rules and by-laws passed under the authority of a repealed act to continue to be valid under a substituted act, provided the by-laws are not inconsistent with the new act. This has practical importance to municipalities because they will not have to re-enact their by-laws every time an act is repealed or amended. However, if an act is repealed and no re-enactment takes place, all by-laws under that act become invalid.

This section was quoted in a recent case, *Croatian Estates Limited et al. v. The City of Toronto, 1970*, concerning a liquor vote in a part of the City of Toronto. The question was whether the repeal of The Liquor Licence Act R.S.O., 1897, by The Ontario Temperance Act, 1916, also repealed local option by-laws passed under The Liquor Licence Act.

In the court case that followed, it was held that although The City of Toronto Act, 1909, preserved the local option by-law of the annexed municipality (Toronto Junction), it did not confer any special status upon the by-law by which the by-law's life could be extended beyond the life of the enabling legislation. Therefore, the judgement upheld the premise that once an act is repealed and not re-enacted, it also invalidates all by-laws passed under the authority of the act.

Section 27

*Implied
provisions*

has several subsections that have a direct bearing on municipal activities. This section deals with the implied provisions of Acts - things that are not specifically stated but are automatically implied with the passage of an act.

Section 27(b)

*Implied
powers*

states that where an act authorizes a person to perform a job, it is implied that the necessary powers to enable the person to do the job are also authorized by the act.

The general principle underlying this section is illustrated by the following case, *Township of Nelson v. Stoneham* (1957). In this case, the Township hired a real-estate agent to act on its behalf in selling certain lands for industrial purposes. Before the sale could be completed, the approval of the Department of Municipal Affairs was necessary. The agent obtained an offer that the municipality accepted. Unfortunately, the sale could not be completed because the Department refused its approval. The agent nevertheless claimed his commission for obtaining the offer. One defense of the municipality was that although it promised to pay commission, there was no statutory provision authorizing it to do so and, therefore, it could not be obliged to pay the commission.

The results of the court case that followed held that the powers conferred on a municipality to sell lands include the power to pay commission to an agent, upholding the premise that the power to act includes the power to do what is necessary to perform the act. The agent got his commission.

Section 27(d)

*Variations to
forms*

suggests that any minor variation to a form is valid and permitted, providing the variation does not take away from the main intent of the form. For example, this section could permit the adding of the municipal name, logo, crest or so on to the standard election form. Since this variation does not alter the intent of the election form, the addition would not invalidate the form.

Section 27(g)

*Powers
concerning
by-laws*

gives the power to a municipality to alter and revoke any by-law it has passed under any enabling legislation.

Section 27(h)

*Time
limits*

covers the instance where a time limit mentioned in a municipal statute expires on a day that is a holiday. This section automatically provides for the extension of the statute to the next day that is not a holiday. There are several instances where time limits are mentioned in municipal statutes, such as those in The Municipal Act. Some examples are Part XI, dealing with quashing by-laws, section 427

dealing with claims arising from damages because of a road in disrepair, and section 638 with time limits expiring on a Saturday. Time limits are also set out in The Municipal Conflict of Interest Act, 1972. (For a detailed discussion, see Bulletin #21 entitled, "Holidays and Time Calculations".)

Section 30

Definitions

lists words and terms and defines these for use in every Act. This list is important and should be carefully reviewed when writing by-laws to ensure that you have a correct understanding of the enabling legislation. The following are a few examples:

- a) "Month" means a calendar month.
- b) "Year" means a calendar year.
- c) "Writing", "written", or any like term includes words printed, painted, engraved, lithographed, photographed, or represented or reproduced by any other mode in a visible form.
- d) "County" includes two or more counties united for purposes to which the Act relates. (County is also defined in The Municipal Act; therefore, in this case, the two definitions are to be read together since they reinforce one another.)
- e) "Newspaper" in a provision requiring publications in a newspaper, means a printed publication in sheet form, intended for general circulation, published regularly at intervals of not longer than a week, consisting in great part of news of current events of general interest and sold to the public and to regular subscribers upon a bona fide subscription list.

Section 32

Interpretation

states unequivocally that the interpretation section of The Municipal Act extends to all other acts that relate to municipal matters. Therefore the interpretation section of these acts must be read in conjunction with the interpretation section of this Act.

CONCLUSION

The Interpretation Act affects every act passed by the Legislature. It provides standard definitions for certain words used in numerous acts. Since municipalities derive their authority to pass by-laws from Provincial acts, it is very important that the correct meaning of words and terms be used in these by-laws. A careful review of the provisions of The Interpretation Act is essential to ensure that by-laws are consistent with the enabling legislation, thereby ensuring that the by-law can be effectively enforced.

Though this bulletin has attempted to highlight sections of The Interpretation Act that are of particular interest to municipalities, it cannot substitute for the Act itself.

This bulletin was prepared in the:

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